

ASSEMBLY BILL

No. 1071

Introduced by Assembly Member Emmerson

February 27, 2009

An act to amend Sections 4110, 4127.8, 4160, and 4400 of, and to repeal Section 4127.5 of, the Business and Professions Code, relating to pharmacy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1071, as introduced, Emmerson. Pharmacy: fees.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacies, pharmacists, pharmacy technicians, wholesalers of dangerous drugs or devices, and others by the California State Board of Pharmacy. Existing law imposes fees on these persons and pharmacies for, among other things, application, examination, licensure, and licensure renewal. Under existing law, these fees are fixed by the board based on a fee schedule that sets forth the minimum and maximum fees.

This bill would increase the minimum and maximum fees in that schedule and would make other conforming changes. Because the bill would increase fees that would be deposited into the Pharmacy Board Contingent Fund, which is continuously appropriated, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4110 of the Business and Professions Code is amended to read:

4110. (a) No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred.

(b) The board may, at its discretion, issue a temporary permit, when the ownership of a pharmacy is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary permit fee shall be *required in an amount* established by the board ~~at an amount not to exceed the annual fee for renewal of a permit to conduct a pharmacy as specified in subdivision (a) of Section 4400.~~ When needed to protect public safety, a temporary permit may be issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary permit was issued by mistake or denies the application for a permanent license or registration, the temporary license or registration shall terminate upon either personal service of the notice of termination upon the permitholder or service by certified mail, return receipt requested, at the permitholder's address of record with the board, whichever comes first. Neither for purposes of retaining a temporary permit nor for purposes of any disciplinary or license denial proceeding before the board shall the temporary permitholder be deemed to have a vested property right or interest in the permit.

SEC. 2. Section 4127.5 of the Business and Professions Code is repealed.

~~4127.5. The fee for the issuance of a nongovernmental license, or renewal of a license, to compound sterile drug products shall be five hundred dollars (\$500) and may be increased to six hundred dollars (\$600).~~

SEC. 3. Section 4127.8 of the Business and Professions Code is amended to read:

4127.8. The board may, at its discretion, issue a temporary license to compound injectable sterile drug products, when the ownership of a pharmacy that is licensed to compound injectable sterile drug products is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary license fee shall be ~~five hundred dollars (\$500) or another~~ *required in an* amount established by the board ~~not to exceed the annual fee for renewal of a license to compound injectable sterile drug products as specified in subdivision (u) of Section 4400~~. When needed to protect public safety, a temporary license may be issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary license was issued by mistake or denies the application for a permanent license, the temporary license shall terminate upon either personal service of the notice of termination upon the licenseholder or service by certified mail, return receipt requested at the licenseholder's address of record with the board, whichever comes first. Neither for purposes of retaining a temporary license nor for purposes of any disciplinary or license denial proceeding before the board shall the temporary licenseholder be deemed to have a vested property right or interest in the license.

SEC. 4. Section 4160 of the Business and Professions Code is amended to read:

4160. (a) A person may not act as a wholesaler of any dangerous drug or dangerous device unless he or she has obtained a license from the board.

(b) Upon approval by the board and the payment of the required fee, the board shall issue a license to the applicant.

(c) A separate license shall be required for each place of business owned or operated by a wholesaler. Each license shall be renewed annually and shall not be transferable.

(d) The board shall not issue or renew a wholesaler license until the wholesaler identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of that designated representative. The designated representative-in-charge shall be responsible for the wholesaler's compliance with state and federal laws governing wholesalers. A wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior

1 designated representative-in-charge ceases to be the designated
2 representative-in-charge. A pharmacist may be identified as the
3 designated representative-in-charge.

4 (e) A drug manufacturer premises licensed by the Food and
5 Drug Administration or licensed pursuant to Section 111615 of
6 the Health and Safety Code that only distributes dangerous drugs
7 and dangerous devices of its own manufacture is exempt from this
8 section and Section 4161.

9 (f) The board may issue a temporary license, upon conditions
10 and for periods of time as the board determines to be in the public
11 interest. A temporary license fee shall be ~~five hundred fifty dollars~~
12 ~~(\$550) or another amount required in an amount~~ established by
13 the board ~~not to exceed the annual fee for renewal of a license to~~
14 ~~compound injectable sterile drug products as specified in~~
15 ~~subdivision (f) of Section 4400.~~ When needed to protect public
16 safety, a temporary license may be issued for a period not to exceed
17 180 days, subject to terms and conditions that the board deems
18 necessary. If the board determines that a temporary license was
19 issued by mistake or denies the application for a permanent license,
20 the temporary license shall terminate upon either personal service
21 of the notice of termination upon the licenseholder or service by
22 certified mail, return receipt requested, at the licenseholder's
23 address of record with the board, whichever occurs first. Neither
24 for purposes of retaining a temporary license, nor for purposes of
25 any disciplinary or license denial proceeding before the board,
26 shall the temporary licenseholder be deemed to have a vested
27 property right or interest in the license.

28 (g) This section shall become operative on January 1, 2006.

29 SEC. 5. Section 4400 of the Business and Professions Code is
30 amended to read:

31 4400. The amount of fees and penalties prescribed by this
32 chapter, except as otherwise provided, is that fixed by the board
33 according to the following schedule:

34 (a) The fee for a nongovernmental pharmacy license shall be
35 ~~three hundred forty dollars (\$340) and may be increased to four~~
36 ~~hundred dollars (\$400) and may be increased to five hundred~~
37 ~~twenty dollars (\$520). The fee for the issuance of a temporary~~
38 ~~nongovernmental pharmacy permit shall be two hundred fifty~~
39 ~~dollars (\$250) and may be increased to three hundred twenty-five~~
40 ~~dollars (\$325).~~

1 (b) The fee for a nongovernmental pharmacy *license* annual
2 renewal shall be ~~one hundred seventy-five dollars (\$175) and may~~
3 ~~be increased to two hundred fifty dollars (\$250) and may be~~
4 ~~increased to three hundred twenty-five dollars (\$325).~~

5 (c) The fee for the pharmacist application and examination shall
6 be ~~one hundred fifty-five dollars (\$155) and may be increased to~~
7 ~~one hundred eighty-five dollars (\$185) two hundred dollars (\$200)~~
8 ~~and may be increased to two hundred sixty dollars (\$260).~~

9 (d) The fee for regrading an examination shall be ~~seventy-five~~
10 ~~dollars (\$75) and may be increased to eighty-five dollars (\$85)~~
11 ~~ninety dollars (\$90) and may be increased to one hundred fifteen~~
12 ~~dollars (\$115).~~ If an error in grading is found and the applicant
13 passes the examination, the regrading fee shall be refunded.

14 (e) The fee for a pharmacist license and biennial renewal shall
15 be ~~one hundred fifteen dollars (\$115) and may be increased to one~~
16 ~~hundred fifty dollars (\$150) and may be increased to one hundred~~
17 ~~ninety-five dollars (\$195).~~

18 (f) The fee for a nongovernmental wholesaler license and annual
19 renewal shall be ~~five hundred fifty dollars (\$550) and may be~~
20 ~~increased to six hundred dollars (\$600), except as provided in~~
21 ~~subdivision (j) and may be increased to seven hundred eighty~~
22 ~~dollars (\$780).~~ The application fee for any additional location
23 after licensure of the first 20 locations shall be two hundred
24 twenty-five dollars (\$225) and may be increased to three hundred
25 dollars (\$300). A temporary license fee shall be five hundred fifty
26 dollars (\$550) and may be increased to seven hundred fifteen
27 dollars (\$715).

28 (g) The fee for a hypodermic license and renewal shall be ~~ninety~~
29 ~~dollars (\$90) and may be increased to one hundred twenty-five~~
30 ~~dollars (\$125) and may be increased to one hundred sixty-five~~
31 ~~dollars (\$165).~~

32 (h) (1) The fee for application, investigation, and issuance of
33 license as a designated representative pursuant to Section 4053
34 shall be ~~one hundred eighty-five dollars (\$185) and may be~~
35 ~~increased to two hundred fifty dollars (\$250).~~ If the applicant is
36 ~~not issued a license as a designated representative, the board shall~~
37 ~~refund one hundred ten dollars (\$110) of the fee two hundred~~
38 ~~fifty-five dollars (\$255) and may be increased to three hundred~~
39 ~~thirty dollars (\$330).~~

(2) The fee for the annual renewal of a license as a designated representative shall be ~~one hundred ten dollars (\$110) and may be increased to one hundred fifty dollars (\$150) and may be increased to one hundred ninety-five dollars (\$195).~~

(i) (1) The fee for the application, investigation, and issuance of a license as a designated representative for a veterinary food-animal drug retailer pursuant to Section 4053 shall be ~~two hundred fifty dollars (\$250). If the applicant is not issued a license as a designated representative, the board shall refund one hundred fifty dollars (\$150) of the fee~~ *two hundred fifty-five dollars (\$255) and may be increased to three hundred thirty dollars (\$330).*

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be ~~one hundred ten dollars (\$110)~~ *one hundred fifty dollars (\$150) and may be increased to one hundred ninety-five dollars (\$195).*

(j) (1) The application fee for a nonresident wholesaler's license issued pursuant to Section 4161 shall be ~~five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780).~~

(2) For nonresident wholesalers who have 21 or more ~~wholesaler~~ facilities operating nationwide the application fees for the first 20 locations shall be ~~five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780).~~ The application fee for any additional location after licensure of the first 20 locations shall be two hundred twenty-five dollars (\$225) and may be increased to three hundred dollars (\$300). *A temporary license fee shall be five hundred fifty dollars (\$550) and may be increased to seven hundred fifteen dollars (\$715).*

(3) The annual renewal fee for a nonresident wholesaler's license issued pursuant to Section 4161 shall be ~~five hundred fifty dollars (\$550) and may be increased to six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780).~~

(k) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(l) The fee for an intern pharmacist license shall be ~~sixty-five dollars (\$65) and may be increased to seventy-five dollars (\$75) ninety dollars (\$90) and may be increased to one hundred fifteen dollars (\$115).~~ The fee for transfer of intern hours or verification

1 of licensure to another state shall be ~~fixed by the board not to~~
2 ~~exceed twenty dollars (\$20)~~ *twenty-five dollars (\$25) and may be*
3 *increased to thirty dollars (\$30).*

4 (m) The board may waive or refund the additional fee for the
5 issuance of a ~~certificate~~ *license* where the ~~certificate~~ *license* is
6 issued less than 45 days before the next regular renewal date.

7 (n) The fee for the reissuance of any license, or renewal thereof,
8 that has been lost or destroyed or reissued due to a name change
9 ~~is thirty dollars (\$30)~~ *shall be thirty-five dollars (\$35) and may be*
10 *increased to forty-five dollars (\$45).*

11 (o) The fee for the reissuance of any license, or renewal thereof,
12 that must be reissued because of a change in the information, ~~is~~
13 ~~sixty dollars (\$60) and may be increased to~~ *shall be* one hundred
14 dollars (\$100) *and may be increased to one hundred thirty dollars*
15 *(\$130).*

16 (p) It is the intent of the Legislature that, in setting fees pursuant
17 to this section, the board shall seek to maintain a reserve in the
18 Pharmacy Board Contingent Fund equal to approximately one
19 year's operating expenditures.

20 (q) The fee for any applicant for a nongovernmental clinic ~~permit~~
21 ~~is three hundred forty dollars (\$340) and may be increased to~~
22 *license shall be* four hundred dollars (\$400) *and may be increased*
23 *to five hundred twenty dollars (\$520) for each* ~~permit~~ *license.* The
24 annual fee for renewal of the ~~permit~~ *is one hundred seventy-five*
25 ~~dollars (\$175) and may be increased to~~ *license shall be* two hundred
26 fifty dollars (\$250) *and may be increased to three hundred*
27 *twenty-five dollars (\$325) for each* ~~permit~~ *license.*

28 (r) ~~The board shall charge a fee for the processing and issuance~~
29 ~~of a license to a pharmacy technician and a separate fee for the~~
30 ~~biennial renewal of the license. The license fee shall be twenty-five~~
31 ~~dollars (\$25) and may be increased to fifty dollars (\$50). The~~
32 ~~biennial renewal fee shall be twenty-five dollars (\$25) and may~~
33 ~~be increased to fifty dollars (\$50).~~ *The fee for the issuance of a*
34 *pharmacy technician license shall be eighty dollars (\$80) and may*
35 *be increased to one hundred five dollars (\$105). The fee for*
36 *renewal of a pharmacy technician license shall be one hundred*
37 *dollars (\$100) and may be increased to one hundred thirty dollars*
38 *(\$130).*

39 (s) The fee for a veterinary food-animal drug retailer license
40 ~~shall be four hundred dollars (\$400)~~ *four hundred five dollars*

1 (~~\$405~~) and may be increased to four hundred twenty-five dollars
2 (~~\$425~~). The annual renewal fee for a veterinary food-animal drug
3 retailer license shall be two hundred fifty dollars (\$250) and may
4 be increased to three hundred twenty-five dollars (\$325).

5 (t) The fee for issuance of a retired license pursuant to Section
6 4200.5 shall be ~~thirty dollars (\$30)~~ thirty-five dollars (\$35) and
7 may be increased to forty-five dollars (\$45).

8 (u) The fee for issuance or renewal of a nongovernmental license
9 to compound sterile drug products shall be six hundred dollars
10 (\$600) and may be increased to seven hundred eighty dollars
11 (\$780). The fee for a temporary license shall be five hundred fifty
12 dollars (\$550) and may be increased to seven hundred fifteen
13 dollars (\$715).